A Plan of Action by the Government of Saskatchewan in Response to the Baby Andy Report

Baby Andy Review Report Finalized

On September 3, 2002, a 20-month-old child suffered life-threatening, non-accidental injuries. Baby Andy and his two older siblings had recently been returned from foster care and were receiving services from Montreal Lake Child and Family Agency. Montreal Lake Child and Family Agency and the Prince Albert office of Saskatchewan Community Resources and Employment had provided services to the family at different times between June 1999 and September 2002.

In order to review the services provided to Baby Andy and his family, the Chief of Montreal Lake Cree Nation, the Board of Directors of Montreal Lake Child and Family Agency, and the Minister of Community Resources and Employment established a joint review panel. The Children's Advocate also participated in the review process by gathering case facts for the review panel and acting as an observer throughout the panel's deliberations. The joint review process was the first of its kind in Saskatchewan.

The review panel's report confirms that child welfare policies, standards and procedures need to be followed consistently to ensure a high quality of service is being provided to children and their families. The report also identifies the need for First Nations, Indian and Northern Affairs Canada (INAC) and the department to work closely together to ensure a strong child welfare system that responds effectively to the needs of children and families regardless of residence.

The department accepts the content of the Baby Andy Review Report and commits to implementing the recommendations. The recommendations of the report extend beyond the Baby Andy case and Montreal Lake Child and Family Agency to propose broader changes that will improve child welfare services both on and off reserve.

Immediate Actions Taken

Immediately following the Baby Andy incident, Montreal Lake Child and Family Agency and Saskatchewan Community Resources and Employment took action to ensure the safety of the other children receiving services from the agency.

- Review of case files

  The Montreal Lake Child and Family Agency asked the department to conduct a full review of services provided to all families by the agency. Every file was examined by senior trainers from the department and the Montreal Lake agency staff. Every family and every child in care has been seen by a case worker.

- Improved training for Montreal Lake Child and Family Agency Staff and Board

  Montreal Lake Child and Family Agency asked the department to provide on-site training for all its staff. Based on the file review, immediate training needs were addressed. The next phase of advanced training is planned for this fall.

  The department also provided an overview of child welfare services to the Board of Directors to ensure they have a thorough understanding of their obligations as Board members.

- Increased communications with community agencies

  An enhanced information-sharing policy and clear procedures will help community organizations as they deliver services alongside the department and First Nations Child and Family Services. Work will continue to ensure all community organizations understand the role and responsibility of First Nations Child and Family Services agencies and the department.

Development of a Comprehensive Support and Funding Plan

The Baby Andy Report recommends that the Montreal Lake Agency, the department and the federal government work with other First Nations agencies to develop a comprehensive Saskatchewan plan that will assist First Nations agencies to further develop the capacity necessary to carry out their obligations pursuant to *The Child and Family Services Act.*

The department is calling on INAC to work with First Nations agencies and the province to develop and implement a comprehensive support and funding plan for Saskatchewan. The goal of this plan is to create an equivalent child welfare system on and off reserve. The Minister of Community Resources and Employment Glenn Hagel has asked the Federal Minster of INAC for their participation in this development. Minister Hagel has also requested that INAC fulfill its obligations to First Nations Child and Family Services agencies by implementing the recommendations of the 2000 National Policy Review and by funding a standard of child welfare services consistent with the provisions of *The Child and Family Services Act.*

As part of the redesign of the child welfare program announced by the provincial government in June 2001, the department has been working with First Nations agencies. The work started in January 2001 and focussed on joint program development, solving funding issues for children in care transferred from the province to the agencies, and joint accountability mechanisms.

While work is underway to develop this plan, the department is taking the following steps:

- Establishing a First Nations Unit to oversee the implementation of the Report's recommendations

  In order to ensure that the recommendations from the Baby Andy Review Report receive full attention, the department is establishing a First Nations Unit comprised of four senior program managers and three trainers – four of these positions are new. These staff will oversee the implementation of the recommendations and lead work with First Nations agencies and the regional offices of the department to improve services and strengthen accountability.

- Child Welfare training to increase

  In addition to current training, the department will provide staff of all First Nations agencies, as well as Montreal Lake Child and Family Agency staff, with a comprehensive child welfare training program, made up of 16 days of classroom curriculum, skills practice, and a review of case files.

  Over 300 First Nations Child and Family Services agency staff have participated in the classroom training since 1999. Three new training positions added to the First Nations Unit will deliver the Province's full training program to the staff of all First Nations agencies.

- Kinship Care to be introduced

  First Nations have identified the need to better support the role of extended family and the community in caring for children. The Government of Saskatchewan has passed amendments to *The Child and Family Services Act* to support kinship care arrangements. These amendments will lead to a fundamental shift in practice that will both address children's safety and maintain their important connection to family, community and culture.

- Circling recognized as a new approach

  The department has introduced a cultural component to case practice for First Nations families who live off reserve. Circling involves Elders, family, children and other community members gathering together to resolve problems. It is a more traditional approach to addressing family issues and child safety concerns.

- First Nations Children's Advocate

  The department supports First Nations' request to INAC for the establishment of a First Nations Children's Advocate for on-reserve child welfare services, with funding provided by the Federal Government. This is a longstanding request of First Nations people and will add to the advocacy available for Saskatchewan children.

- New ways to improve communications

  A structured approach to enable effective communications and information sharing on a scheduled basis will strengthen the planning forums that started in 2002. First Nations Child and Family Services agencies, the department and the Federation of Saskatchewan Indian Nations have formed various local and provincial forums to enhance communication, improve service delivery and develop joint programs.

- Access to the department's automated information system to track individuals and families

  The department is extending its automated information system to First Nations agencies, beginning immediately with two agencies. An implementation plan will be developed to provide similar access and capacity to all First Nations agencies by the end of 2004/05 fiscal year.

- Province to work toward an agreement with the Federation of Saskatchewan Indian Nations

  The department and FSIN have agreed to work toward a formal partnership agreement. A key priority of the department is to recognize and support the unique characteristics of First Nations delivered child welfare services.

Reporting Progress

The province commits to report progress on child welfare program improvements, including the recommendations in the Baby Andy Report within one year.

103-07326/

The "Baby Andy" Report

Examination of services provided to Baby Andy and his family

July 2003

Saskatchewan
Community Resources
and Employment

MONTREAL LAKE
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Dear Chief Bird and Minister Hagel:

Please accept the enclosed report of the Review Panel that you established to review the services provided to 20 month old Andy and his family and, the circumstances which led to his injury in September 2002.

The panel carefully reviewed the facts provided by the Office of the Children's Advocate, conducted an analysis of the facts and developed the findings and recommendations that are outlined in the report. The circumstances that led to Andy's injuries were of great concern to the panel and led to recommendations that we sincerely hope will improve child welfare services.

Thank you for the opportunity to participate in this review and to contribute to the ongoing work of ensuring that families are supported and children are protected.

Sincerely,

Edadeen Bird, Executive Director
Montreal Lake Cree Nation
Child and Family Agency

Raymond Shingoose, Executive Director
Yorkton Tribal Council
Child and Family Services

Gail Hartsook
Northeast Region
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Executive Summary

On September 3, 2002, a 20-month-old child suffered life-threatening, non-accidental injuries. Andy, often referred to as "Baby Andy", and his two older siblings had recently been returned from foster care and were receiving services from Montreal Lake Child and Family Agency. The Montreal Lake Agency and the Prince Albert office of the Department of Community Resources and Employment had provided services to the family at different times during the period between June 1999 and September 2002.

The Chief of the Montreal Lake Cree Nation, the Board of Directors of the Montreal Lake Child and Family Agency, and the Minister of the Department of Community Resources and Employment established a joint review process to examine the services provided to Baby Andy and his family and to make recommendations.

The Terms of Reference provided for a Review Panel consisting of two representatives appointed by the Montreal Lake Cree Nation, two representatives appointed by the Department of Community Resources and Employment, two representatives appointed by Indian and Northern Affairs Canada, and the Children's Advocate as an observer. The Children's Advocate also agreed to gather case facts for the Panel who would then conduct an analysis to determine findings and recommendations.

The review process established by the Montreal Lake Child and Family Agency, the Department of Community Resources and Employment, and the Children's Advocate is recognized by all parties as the first of its kind in Saskatchewan. It brought together the expertise and the perspectives of the participants and has served as an alternative to investigative processes that could have been undertaken by any one of the parties.

The review was conducted in the spirit of shared responsibility and a desire to improve child welfare services for children and their families regardless of where they live. The findings of the review panel are limited to the Montreal Lake Child and Family Agency and the Prince Albert office of the Department of Community Resources and Employment. A number of the recommendations may benefit the other First Nations Child and Family Services (FNCFS) agencies and Department of Community Resources and Employment offices.

Child welfare services exist to ensure the safety and protection of children in our society. It is, therefore, critical that the delivery of services is reviewed when incidents occur and that any necessary improvements are made to ensure that a high quality of service is available. Child welfare services must have the resources and the capacity to meet their objectives.

It should be noted that the Montreal Lake Child and Family Agency is one of 17 FNCFS agencies that have developed over the past 10 years. Prior to this development, child welfare services on reserve were provided by the province in only very serious situations of a life-threatening nature. The establishment of

FNCFS agencies is a major advancement for First Nations children and families in Saskatchewan. Increased capacity in areas such as training, quality assurance, expert case consultation, and policy development would support further development of the FNCFS agencies.

The responsibility for on reserve child welfare services is shared by the FNCFS agencies, the Department of Community Resources and Employment, and Indian and Northern Affairs Canada (INAC) and, therefore, requires a comprehensive joint effort from these three parties. A foundation for this work has been set.

The Department and FNCFS have begun work on joint service improvement and accountability issues. The review panel notes that a National Policy Review undertaken by the Assembly of First Nations, with FNCFS agency representatives, and INAC was completed in June 2000. Saskatchewan First Nations were instrumental in prompting this national review.

There are striking similarities between the systems issues raised in the Baby Andy Review and those raised in the National Policy Review. The recommendations in the National Policy Review provide a blueprint for addressing the capacity and funding issues that were also identified in the Baby Andy Review.

The Baby Andy Review Panel has made findings and recommendations in the following six areas:

1. Communication and Information Sharing;
2. Staffing — Turnover, Training and Supervision;
3. Accountability;
4. Case Management and Practice;
5. Coordination of Services; and
6. Government Support.

A number of improvements to child welfare policy and program standards have already been made by both the Department of Community Resources and Employment and the Montreal Lake Child and Family Agency. Work is in progress to address those issues that are outstanding. Some of the issues identified in this report pre-date the improvements that have been made, and work continues to ensure that practice is consistent with the policy and program expectations.

The following report of the findings and recommendations of the review panel is submitted to the Chief of Montreal Lake Cree Nation, Board of Directors of the Montreal Lake Child and Family Agency and the Minister of the Department of Community Resources and Employment.

Part I - Introduction

On September 3, 2002, 20-month-old Andy, who will be referred to throughout this report as "Baby Andy", was seriously injured as a result of child abuse. He and his two older siblings had recently been returned home from foster care. The Montreal Lake Child and Family Agency (MLCFA), hereafter referred to as "the Agency", was providing services at the time of the incident. The Agency and the Department of Community Resources and Employment (DCRE), hereafter referred to as "the Department", formerly the Department of Social Services, agreed that a joint review process be established. The Children's Advocate also served notice of intention to investigate under *The Ombudsman and Children's Advocate Act* but expressed a desire to participate in the joint review process.

Terms of reference for the review (Appendix A) included an examination of all services provided to Baby Andy and his family by either the Department or the Agency. Particular attention was to be paid to:

- services provided to the children and parents while the children were in foster care;
- the decision to return the children to the care of their parents; and
- services provided subsequent to the children's return home.

Principles of the Review Process

The terms of reference for the review provided the review panel with principles to guide the process. These principles were as follows:

- The parties share a mutual interest in the protection and safety of all children;
- Information would be shared with all parties involved in the review process;
- All parties would be involved in the review process;
- The need for public accountability through an open and transparent process would be balanced with individual privacy concerns;
- The criminal process would be respected and not interfered with; and
- The review team would examine the services provided to Baby Andy and his family but would not assign criminal liability.

The Baby Andy Review Process

The Children's Advocate Office completed independent fact finding by holding interviews with 23 persons from 11 agencies and reviewing documentation from all relevant files and records. This information was compiled and provided to the review panel in February 2003 for thorough analysis. The Children's Advocate participated in the panel's deliberations in an observer capacity and provided additional information and clarification of the facts as required. Indian and Northern Affairs Canada (INAC) declined an invitation to sit as a member of the review panel; however, it offered to provide information as requested by either the office of the Children's Advocate or the panel members.

Part II - Context

Child Welfare Services in Saskatchewan

Child welfare services respond to issues of child abuse and neglect. *The Child and Family Services Act* provides the mandate to investigate reports of child abuse and neglect and provide services to ensure child safety. Wherever possible, services are provided so that children can remain safely in their homes or in the care of their extended family. Where this is not possible, children are admitted to care and are most typically placed in foster homes. Program standards are contained in the Family Centred Case Management Manual, implemented in 1994, and in the Children's Services Manual, implemented in 2002. The Family Centered Case Management Manual includes the overall polices, procedures and program standards for child protection services. The Children's Services Manual includes the policies, procedures and program standards that are more specific to children who have been admitted to care. Together, these manuals provide comprehensive guidance to child welfare practice.

Child welfare is a complex service because the problems that cause people to physically and sexually abuse or neglect their children are complex. The effects of abuse and neglect, in some cases compounded by separation from family, have profound effects on children and youth, often throughout their lives.

In June 2001, a redesign of Saskatchewan child welfare services was publicly announced. This redesign plan was developed in response to problems that had been identified within the child welfare system. The Department has been implementing a series of program changes and accountability measures under this plan.

Who Provides Child Welfare in Saskatchewan

In Saskatchewan, child welfare is provided by:

1. Department of Community Resources and Employment provides child welfare services off reserve through five regions and 21 offices.
2. First Nations Child and Family Service agencies provide services on reserve through 17 autonomous First Nations Child and Family Service agencies.

Development of First Nations Child and Family Services Agencies

Prior to the existence of FNCFS agencies, there was minimal child welfare service on reserve. Indian and Northern Affairs Canada, hereafter referred to as "INAC", funded about 12 family worker positions across the province; however, these positions had no authority to provide mandated child welfare

services. The Department provided child welfare services on reserve only in exceptional circumstances. Because of issues of federal jurisdiction, the province intervened only in child welfare matters that were considered to be life and death incidents of child abuse or neglect. When situations had deteriorated to this point, children were often apprehended, placed in foster homes off reserve and many were adopted by non-First Nations families.

Not surprisingly, the child welfare system was not well regarded by First Nations. It was, in many respects, viewed in much the same way as the residential school experience where First Nations children were lost to their families and communities.

The similarities between the child welfare system and the residential schools are strong in other respects as well. The long-term effects of residential school placements have had a tremendous impact on the quality of personal and family life for many First Nations people – generations of families exist that did not have the benefit of family life as a model for their own parenting. The residential school experience, whether the children experienced harsh and abusive conditions or not, is credited with many of the family problems which exist today.

First Nations communities want their child welfare agencies to deliver services based on First Nations values, beliefs and practices.

Relationship between First Nations Child and Family Services Agencies and the Department of Community Resources and Employment

Both First Nations Child and Family Services agencies (FNCFS) and the Department share the responsibility for child welfare in the province. In addition to sharing the mandate for service, they share a common client group in that families who are receiving services often move on and off reserve.

Saskatchewan First Nations were the last in Canada to enter into Agreements with the province for establishing FNCFS agencies. FNCFS agencies are a relatively new service that has developed with limited supports. The first Agreements between the Department and First Nations were signed in 1993 and the most recent in 2000. The agreements contain nine components including:

1. **Role of the Agency and the Minister** – The Agreements outline the relationship between FNCFS agencies and the province. The Agreements give the agencies the authority to exercise responsibilities under *The Act*. They recognize that the First Nations have the authority to develop and organize agencies which provide services consistent with their culture and values.

2. **Delegation of Authority** – Under *The Child and Family Services Act*, the Minister of the Department of Community Resources and

Employment and his officers and directors are given authority to provide child protection and family services. Section 61 of *The Act* allows the Minister to delegate his authority to FNCFS agencies, upon entering into agreements.

3. **Confidentiality** – The Agreements call for information sharing between the agencies and the province and commit the agencies to comply with the confidentiality requirements of *The Act*. The agreements require all persons employed or associated with the agency to take an oath of confidentiality, consistent with provisions in *The Child and Family Services Act.*

4. **Indemnification** – The agreements require FNCFS agencies to indemnify Saskatchewan and to obtain appropriate insurance.

5. **Review and Evaluation** – The agreements contain provisions to ensure review and evaluation of the operations of the agencies.

6. **Dispute Resolution** – The agreements provide for a process to resolve disputes between the agency and the province.

7. **Federal Funding** – The agreements are contingent on the agency receiving federal funding and give the province the right to terminate the agreement in the event the federal government discontinues funding.

8. **Management Structure** – The agreements describe the relationship between Chiefs, Band Councillors and Boards of Directors of the agency. Conflict of interest policies are in place to ensure separation between the operation of the agencies and the Band, Chief and Council.

9. **Program Description** – A general description of the programs and services offered by the agency is included as part of the agreements.

Some of the agreements include provisions for the development of protocols between the FNCFS agencies and the Department in 26 program areas. These protocols require development and implementation. FNCFS agencies may develop their own program standards. First Nations program standards are currently under development and until their completion, FNCFS agencies use provincial program standards. The current arrangement of authority was considered to be an interim arrangement pending resolution of issues of jurisdiction and authority between First Nations, Saskatchewan and Canada.

The first phase of the Department's work with FNCFS focussed on negotiating agreements. Since then, the department has provided assistance to FNCFS on specific case matters and operational issues. Both systems recognize that a high number of families who receive child welfare services off reserve are First Nations. The Department has received FNCFS assistance in developing policy and programming that is responsive to First Nations children and families.

Relationship between First Nations Child and Family Services Agencies and the Federal Government

INAC is responsible for funding FNCFS agencies. Directive 20-1, a national funding mechanism, requires that FNCFS agencies enter into agreements with the provinces for authority to deliver child welfare services on reserve. Directive 20-1 also lays out funding criteria for the agencies. The funding criteria is intended to support services that are comparable to, but not necessarily equivalent to, those provided by the provincial child welfare system. The funding formula does not adapt to, or take into account, all of the variations in provincial child welfare legislation or reforms to provincial child welfare programs. Therefore, FNCFS agencies are expected to provide services according to provincial legislation and program standards with funding criteria that does not recognize all of the provisions in *The Child and Family Services Act* or its accompanying program standards. Program Directive 20-1 provides funding to FNCFS agencies in two parts:

1. A fixed level of funding for operational costs; and

2. Maintenance costs which are reimbursed based on claims made by the agency for those actual costs related to keeping children in care identified by INAC policy.

Concerns with this funding arrangement were identified during the 1990's and, as a result, a National Policy Review was jointly undertaken by the Assembly of First Nations (AFN) and First Nations Child and Family Services agency representatives and INAC. The review was conducted between March 1999 and June 2000, at which time a report with 17 recommendations for change was completed (Appendix #B). Recommendations were made in the areas of:

- governance;
- legislation and standards;
- communications; and
- funding.

However, while work has been done to facilitate implementation of the recommendations, none have yet been implemented.

Relationship between First Nations Child and Family Services Agencies and Boards of Directors

FNCFS agencies are also accountable to a Board of Directors. The Boards are composed of community members who want their agency to respond to child protection in culturally-supportive ways. They are designed to ensure that agencies are responsive to local needs and accountable to their communities. Their role is to provide agency governance, strategic planning to address community issues, development of local operational policy, and broad guidance and direction for the agency.

The Boards are not involved in the daily administration of the agency or case management. Boards are intended to create an arms-length relationship between service delivery and political structures.

The Montreal Lake Child and Family Agency

Montreal Lake Child and Family Agency, Montreal Lake Cree Nation and the Province of Saskatchewan signed an Agreement in July 1996 for the purpose of establishing First Nation, community-directed child and family services programs which would strive to improve the quality of life for First Nations children and families. The agreement established the parameters within which the parties would work together to implement the program.

The Agency became operational in September 1998 and began providing services at their two reserves, Montreal Lake and Little Red River.

Montreal Lake Cree Nation currently has a population of 3,054, of which 964 are children 18 years of age and under. The Agency currently employs an Executive Director, a Program Supervisor, five family service case workers and four administrative staff. They also employ a Director of Group Home Services and group home staff.

The Northeast Region of the Department of Community Resources and Employment

The Northeast regional office of the Department has its main office in Prince Albert, as well as offices in Melfort, Nipawin, LaRonge and Creighton. The Region has a total staff complement of 210. This includes a Child and Family Services staff complement of 91.75, of which 11 positions are supervisors, and a regional management team consisting of a Regional Director, a Regional Business Manager, a Regional Planner for Labour Market Services, a Regional Planner for Supporting Healthy Families, a Regional Manager for First Nations Child and Family Services Partnerships and five Area Service Managers. There are ten FNCFS agencies located within the geographic area covered by the Northeast Region.

Part III - Review of the Services Provided to Baby Andy and His Family

Baby Andy was born in January 2001. Prior to his birth, services were provided to his mother and two older siblings by both the Department of Community Resources and Employment and the Montreal Lake Child and Family Agency.

The review team concluded that the information about services provided prior to Baby Andy's birth was important and provided a context within which to analyze services provided following Baby Andy's birth and leading up to his injuries.

The following case facts are from the period between June 1999 and September 2002.

The Agency initiated involvement with Baby Andy's mother in June 1999. At the time, his mother was 17 1/2 years old, a single parent with a two-year-old and a four-month-old baby.

In the early years of involvement, Baby Andy's mother expressed willingness to address the concerns that interfered with her ability to safely parent her children; however, she often had difficulty following through. Although she had many problems, she eventually stabilized and became involved in a variety of family support services.

Both the Agency and the Department were involved with the family for different periods of time; however, information was not consistently shared between these agencies even when one was aware that the other was involved with the family. Examples of information not shared between the Agency and the Department include:

- case information including reports of child abuse and neglect, results of investigations, historical file information, placements of the children in care and anonymous reports of concerns;
- formal referrals were not made by the Department's child protection services or the Agency when the family moved off and on reserve.

The children's mother was transient for much of the period under review. Several months prior to the incident under review, she moved off reserve with her common-law husband.

Extended family members provided care for Andy's siblings for appreciable periods of time in their early lives. Although some extended family members experienced personal problems that affected their ability to provide care, they were consistently interested in the children. Although the file information references planning to pursue extended family placement for Andy, it is unclear whether or not this occurred.

Baby Andy's older siblings experienced a great deal of instability. They were moved many times between June 1999 and September 2002, including moves between family members as well as foster care. The majority of these moves were from their mother's care to grandparents through a private arrangement; however, they also had several foster home placements.

Aside from a brief stay in an emergency foster home immediately following his apprehension in April 2001, Baby Andy was in one foster home. The children's mother signed Agreements for Residential Care pursuant to Section 9 of *The Child and Family Services Act* to provide the legal authority for placement of the children. The agreements, which were renewed from time to time, included conditions related to the personal problems the mother was experiencing.

While Baby Andy and his siblings were in foster care, there was minimal contact by the case workers with the children at the foster home. Therefore, the children's adjustment to foster care, their developmental needs, or any special needs they may have had, were neither assessed nor addressed. Although file records noted some health concerns and that developmental assessments were to be completed, there was no indication that assessments were ever completed. The quality of care provided to the children while in foster care was not assessed and the foster parents did not receive support services from case workers.

Due to a shortage of foster homes for both the Agency and the Department, the Agency foster homes used were primarily off reserve and a considerable distance from Montreal Lake, i.e., Hudson Bay, Melfort, Big River, Prince Albert. Proximity provided a practical barrier to meeting contact standards for children in care. When the children had family contact, transportation was provided by foster parents. The Agency asked that foster parents transport the children because foster parents would be reimbursed for their costs under the Agency's funding arrangements, whereas case-related transportation by caseworkers was considered an operational expense.

The Agency experienced a high degree of staff turnover during the time it was involved with the family. There were eight caseworkers, three supervisors and four executive directors. There were also four caseworkers and one supervisor from the Department involved during this same period. The number of staff involved had a direct impact on continuity of case planning as well as on the services provided to the family.

File documentation, including assessments and case plans outlining future direction, was not completed in a clear, concise manner in accordance with program standards. Therefore, important background information was not available to new caseworkers when they assumed responsibility for the case.

Information on the case files directly related to the decision to return the children home in August 2002, was unclear and inconsistent. In June 2002, the case plan changed from one which recommended a long-term wardship order to one which returned all three children home.

Prior to Baby Andy and his siblings being returned to their mother, they had limited visitation and therefore, little opportunity to adjust to the change. Baby Andy had spent the majority of his life in one foster home so the adjustment would understandably be difficult for him.

On August 1, 2002 when the children were returned to their mother, Baby Andy was 19 months old and his siblings were three years and five years old. The children's mother was 20 years old and seven months pregnant. She had little parenting experience or preparation for the responsibilities and demands inherent in caring for a young family. No risk assessment, parenting assessment or plan was completed to ensure the safety of the children once they were returned to their mother.

There were a number of community service agencies involved with the family, three of which focused on providing services to young families. Although there was frequent contact between these agencies and the family, no regular communication took place between the community service agencies and the Agency. The community service agencies were not aware that their programs were part of a case plan or, if there were specific expectations of their programs.

When the decision was made to return the children to their mother, there was no contact between the Agency and the Department's child protection services to discuss transfer of case management responsibility or to plan jointly for the after-care needs of the family.

Following the return of the children, the Agency continued to have contact with the family; however, no request was made by the Agency to the Department's child protection services for follow-up support services to the family or for joint case management. Nor was there communication between the community service agencies and the Department or the Agency to discuss their observations or their assessments as to how the family was managing.

During the month following the children's return home, there were a number of indications that the family was experiencing stress. As a result of their contact with the family, a number of individuals were aware of these difficulties; however, they responded in isolation from one another. Information was received in a piecemeal fashion and while many were aware of it, it was never "put together". Consequently, it was never fully assessed or acted upon. In addition to information that came to the attention of the community service agencies, the Department received two phone calls expressing concerns about the children and their mother's ability to manage their care.

The Department assessed the information as not requiring follow up and believing that Agency staff were aware of the concerns, did not contact them.

On September 3, 2002, all three children were apprehended. Baby Andy was admitted to hospital with life-threatening injuries. Although he survived, Baby Andy has serious medical problems.

Part IV - Findings and Recommendations

Introduction

The following findings and recommendations were developed by the review panel, based on the case facts provided by the Children's Advocate Office, as well as on a review of agreements, policy and procedure manuals, and reports that were considered relevant. The information was limited by the quantity and quality of documented material on the case files; however, the review panel believes the information provided was sufficient to complete an analysis, determine findings, and make recommendations.

The case facts were analyzed using policy, program and practice standards contained in the the Department's Family Centred Services and Children's Services Manuals. The Agency currently uses the Department's policy and procedures, The Agency has developed some of their own procedural guidelines regarding agency operations including areas of supervision and staff cover-off which were also a reference.

The findings of the review panel relate only to the Montreal Lake Agency and the Prince Albert Office of the Department. The panel recognizes that, in addition to findings and recommendations related to a specific incident, it is important to consider the potential for more system-wide advances. The recommendations in this report are, therefore, stated more broadly in some instances so that other FNCFS agencies and the Department's offices may benefit from them.

During their deliberations, the review panel members also considered the National Policy Review (NPR) that was jointly undertaken by the Assembly of First Nations, with First Nations Child and Family Services representation, and INAC. This review was completed in June 2000. The review panel found that there was a striking similarity between the system issues raised in the Baby Andy Review and the National Policy Review.

The National Policy Review clearly calls for a national framework to ensure all agencies are supported in a manner that is sensitive to child welfare in a given province/territory, including legislation and standards.

The National Policy Review recommends establishing tables consisting of representatives from First Nations, INAC and the provinces/territories to identify issues and solutions that fit the needs of each province/territory. It is the understanding of the panel that, to date, these recommendations have not been acted upon. The review panel would strongly recommend that the recommendations of the National Policy Review be actively considered for their application and implementation in Saskatchewan.

The review panel members each brought a different perspective and, therefore, provided a variety of insights and information. The findings of the review panel, along with its recommendations, are offered, as a whole, in the spirit of

shared responsibility and a desire to improve child welfare services to children and families who receive services from both an FNCFS agency and the Department.

1. Communication and Information Sharing

Finding:

Information sharing and communication between the Department of Community Resources and Employment and the Agency was not adequate to ensure that both systems were aware of complete information and that joint case planning occurred based on that information.

Although the family involved in this case was transient and moved several times between Montreal Lake and Prince Albert while receiving services, relevant case information was not shared between the Agency and the Department. There was minimal joint case planning even when one of the agencies was clearly aware of the involvement of the other.

The review panel recognizes that, where families are mobile with frequent moves off and on reserve, it may not be in the family's interest to prematurely transfer responsibility. It is necessary, however, that an effective process of joint case management be established that ensures continuity of service and clear roles between the systems. Both FNCFS agencies and the Department must be able to identify those cases where joint case management is required and have regular forums for case conferencing and coordination of services between the agencies.

A Case Transfer Protocol between FNCFS agencies and the Department was signed in December 1998. This document contains the provisions and procedures necessary to direct information sharing between the service systems; however, the protocol was not followed. A set of procedures and expectations to direct shared or joint case planning is under development.

The review panel recognizes the practical limitations of sharing information and tracking the movement of families. The Department has an automated information system for tracking purposes; however, families involved with the FNCFS agencies are not included on the information system and FNCFS agencies do not have access to this system. Given the high degree of mobility of many families and the critical need for a seamless child protection system, both services require access to a common database.

The National Policy Review also recognizes the need for FNCFS to have management information systems. A management information system must be developed and funded for First Nations in order to ensure the establishment of consistent, reliable data collection, analysis and reporting procedures amongst all parties (First Nations, regions, provinces/territories and headquarters).

Recommendations:

1.1 That the Agency, other FNCFS agencies as required, and the Department ensure that staff are trained in the content of the Case Transfer Protocol and FNCFS and the Department develop a clear set of procedures to direct shared case planning between the two systems.

1.2 That, with the support of INAC, the Department's Information System be extended to all FNCFS agencies so that a common database exists for all families and children receiving child protection services as permitted by the current legal framework and confidentiality restrictions.

2. Staffing - Turnover, Training and Supervision

Finding:

Staff turnover, training and supervision played a role in the fact that Baby Andy and his family did not receive a quality of service that was consistent with the program standards and expectations in child welfare services.

Eight caseworkers, three supervisors and four executive directors from the Agency; and four caseworkers and one supervisor from the Department were involved with Baby Andy's family between June 1999 and September 2002. The Montreal Lake Child and Family Agency is a small agency with five caseworkers and one supervisor. This change in caseworkers represents a high level of staff turnover which had a direct impact on case planning for Baby Andy and his family. The impact is most clearly evident when, for reasons that are not clear, the case plan changed from seeking long-term wardship in February 2002, to returning the children to their mother in June 2002.

When there are changes in caseworkers, continuity in case planning can often be provided by supervisors and managers. These senior positions are expected to provide expertise in decision making and ensure casework is undertaken in a manner consistent with standards; however, the Agency also experienced turnover in these senior positions.

Child welfare work is complex and requires that staff are qualified and well prepared through specialized training. Both the Department and the Agency require child welfare staff to have professional qualifications, i.e., a Bachelor of Social Work, Bachelor of Indian Social Work or a Certificate in Social Work. In addition to professional qualifications, the Department provides a child welfare training program that consists of three components:

1. 16 days of classroom curriculum provided in separate modules;
2. on-site sessions where the curriculum content is reinforced through application to cases; and
3. follow-up file reviews that assess the extent to which the training is reflected in practice.

This training program was introduced in 1998. The first component has been increasingly available to FNCFS agency staff. Although the Montreal Lake Agency expects that all case work, supervisory and management staff attend this training, none of the caseworkers involved with this family had training at the time of their involvement. All staff have since taken on-site training provided by Department trainers and have begun to participate in follow-up sessions to reinforce the training.

Recommendations:

2.1 That the Agency ensure that all staff, including supervisory and management staff, receive child welfare training.

2.2 That the full child welfare training program is provided to all Department and FNCFS caseworkers including the follow-up components.

2.3 That the Agency ensure, with support from the Department, that its Board of Directors receive training so they are familiar with child welfare program expectations.

2.4 That the Department, the Agency, and other FNCFS agencies, as appropriate, assess staff turnover and develop strategies, where required, to address this problem.

3. Accountability

Finding:

The lack of compliance with program expectations indicates that both the Department and the Agency need improved overall accountability mechanisms that assure practice is consistent with program standards.

- Throughout the report, there are examples where child welfare policy and practice standards were not followed. Generally, there was a lack of structured casework. Investigation reports, risk assessments, family assessments and case plans were not consistently completed as required by program standards. Therefore, there is no clarity on the risks to child safety, the actions necessary to address the risks and the time frame in which to address the risks.

- In August 1999, the Department introduced annual file reviews as a quality assurance mechanism to determine whether or not practice standards are being met. These reviews provide information on specific areas of practice that need to be addressed.

- In order to ensure accountability at a broader system level, the Department is in the process of developing an accountability framework that emphasizes client outcomes. This broader approach to accountability is intended to evaluate overall program effectiveness. FNCFS Agencies are required by their federal funding agreement to complete program evaluations in the third and sixth year of operations. There is no specific funding in place for ongoing

evaluation of service effectiveness or a broader accountability framework. This issue was addressed in the National Policy Review and remains outstanding.

- Neither the Department's nor the Agency's case files were properly maintained. Standard forms were not used consistently or completed in full. Timely and complete file documentation provides an important record on which to base future decisions and track events over time. File documentation was found to be incomplete in this case. Information from interviews completed by the Children's Advocate Office supplemented the file information for the purposes of this review; however, this information was not available to caseworkers at the time they were making important decisions.

- No formal or informal appeals were made by concerned persons in this case which raises the question of whether or not there was an awareness of mechanisms that are available to address concerns.

Recommendations:

3.1 That the Agency, other FNCFS agencies, as appropriate, and the Department, ensure accountability mechanisms are in place that evaluate the extent to which practice is consistent with program standards.

3.2 That INAC provide FNCFS agencies with funding to develop mechanisms to evaluate broader system effectiveness.

3.3 That the Agency, other FNCFS agencies, as appropriate, and the Department, implement the provisions of the agreements that provide for the development of a process to respond to case-specific questions related to jurisdiction and resolve any disputes that may arise.

3.4 That the Agency, other FNCFS agencies, as appropriate, INAC, and the Department work to ensure appeal processes are available and meaningful and that family members, as well as service providers, are informed of the processes.

4. Case Management and Practice

A) Extended Family Involvement

Finding:

Extended family members were consistently interested in providing care for the children; however, they were not fully assessed and consequently not provided a full range of services and supports that may have enabled them to provide safe care.

- The review panel recognized the special role of extended family and community for First Nations. Although their interest was evident, extended family was not fully involved in planning. The review panel recognizes the

personal problems that were experienced by some of the extended family; however, the panel notes that they were not fully assessed, nor provided supports and services that may have assisted in assuring quality child care. Several extended family members expressed interest in providing care.

- Amendments to *The Child and Family Services Act* have been recently introduced that will ensure extended family are routinely considered as an option for children who cannot remain in their parents' care and receive the supports necessary. Whenever extended family or others of significance in a child's life can provide safe care, they would, under these amendments, be able to receive services and supports. INAC's current funding provisions would not allow FNCFS agencies to fully implement these amendments. Therefore, families receiving services on reserve will not have access to the same level of support services as families living off reserve.

B) Services to the Children

Finding:

The focus of child welfare services is on the safety and best interests of children which was not reflected in this case. There was little recorded information on the children's needs, their development, or planning for the safety and well-being of the children.

- Child welfare agencies must be concerned about the effects of multiple moves on children and must promote child-focused case work. In early 2002, a comprehensive Children's Service Model was introduced by the Department which contains program standards that provide more specific direction on case practice for children in care.

- Although it is generally recognized that moves between family members are not as disruptive as moves in and out of foster care or between foster care providers, constant movement affects children's development. While children can be very resilient, the review panel considered the extent of movement of Baby Andy's siblings to be excessive.

- For a period of time when the older children were in care, visitation with extended family was not allowed without their mother's permission although this contact would have, in all likelihood, been in the children's best interests. The Department's program standards and guidelines have since been changed to clearly reflect the importance of contact between children and extended family.

- The Children's Services Manual in Chapter 3 states:

  "Consideration must be given to the number of times a child has been in and out of care. Each time a child is placed in out of home care the potential exists to compromise their ability to meet developmental milestones and form attachments. This is especially true for children under the age of 3."

- The Family Centred Case Management Manual in Chapter 7 further states:

"reuniting children with their family and when this is not possible, the use of assertive planning and casework to achieve other permanent family relationships for children that accommodates the child's special needs and best interests."

The Children's Services Manual was in effect only during the latter part of the period under review; therefore, not all staff involved with the children received related training.

Child welfare services are designed to ensure the safety and well-being of children and in doing so, planning for a child's future is an integral part of case planning for children in care. There was confusion regarding the plan for these children.

C) Returning Children to Parent's Care and Follow-up Services

Finding:

The decision to return the children home is a critical point in the case work. The Children's Services Manual (Chapter 2.7) provides specific policy and standards for this important decision. The policy and standards were not followed in this case.

During the month between the children's return home and Baby Andy's injury, it was evident that the family was having serious difficulty. Although a number of individuals were aware of the difficulties, the information was not shared and therefore, was not fully addressed or acted upon.

Both the Family Centered Case Management Manual and the Children's Services Manual outline policy and guidelines for returning children home:

"When the caseworker has assessed that the risks for child safety have been sufficiently reduced or eliminated or the family has an adequate safety plan to ensure child safety, the caseworker in consultation with the supervisor will plan for the return of the child to their home."

Standards:

1. The caseworker and supervisor shall jointly determine whether a child is returned home based on an assessment of risk.
2. A safety plan must be established to maintain the child's safety upon return.
3. The caseworker and supervisor must consider if the child and family will require family support services.
4. The child, family and caregiver must be adequately prepared for the child's return home.

5. The caseworker must have a home visit with the parents and the child within one week of the child returning home.

6. The caseworker and supervisor should determine if any court order made in regard to the child should be varied when the child is returned home.

7. If the caregiver expresses a wish to care for the child/youth in the event the child/youth should come back into care, this request should be recorded on the child care file and the foster home file.

Although elements of the above program standards were present in the service, there was no evidence that a comprehensive safety plan was established and communicated to all parties involved.

Recommendations:

4.1 That the Department work with FNCFS agencies, as appropriate, to develop program standards for services to extended family members to both assess their ability to provide safe care and support their care of relative children.

4.2 That INAC's funding allow for implementation of provisions in *The Child and Family Services Act* that support extended family to care for children who cannot safely return to the family.

4.3 That INAC funding provisions be reviewed to ensure they allow for caseworkers to transport children for family visitation and have regular contact with children in foster care.

4.4 That the Department and the Agency work together to develop foster homes and share existing resources so that children can be placed in close proximity to their families.

4.5 That the Montreal Lake agency and other FNCFS agencies, as appropriate, have available a senior-level consultant with child welfare expertise to consult with regarding casework decisions and critical case incidents.

5. Coordination of Services

Finding:

Although there were a number of community service agencies working with this family, they were not providing services in a coordinated fashion as part of an overall plan for the family; therefore, their roles and obligations with respect to child protection concerns were not clear.

At the time the children were returned to their mother, there were a number of community based services involved. When a number of services are involved with a family, it is necessary that they work together to form an integrated case plan. Their roles need to be clear and their involvements coordinated to ensure

that services are not fragmented, counter-productive or overwhelming to the family. When the family is receiving child protection services, child safety must be a focal point of service and all information that may indicate child safety is compromised must be reported immediately to a child protection agency. When child protection services are involved, the child protection worker should assume a case manager role and regular case conferencing should occur to ensure an integrated case plan.

- The FCSM, Chapter 5, Section 3, entitled "Working with Service Provider Systems" states *"A major part of the caseworker's job is to help the family identify, engage and work with a network of resources that will assist the family in meeting the needs identified in the investigation and assessment phase and achieve the treatment plan outcomes. This network should include formal resources (counselling, parent aide services, day care, etc.) and informal ones (friends, relatives, church, community organizations). When there are multiple providers, a meeting of all providers should be held with the family. The goal of this meeting would be to assure that the services are coordinated to meet the change outcomes. It is important for each provider to see how their work fits into the overall intervention. Along with improving coordination and creating a sense of "team", this can help eliminate duplication of services or unrealistic expectations of the family".*

- The caseworker will also continue to be involved in facilitating the smooth functioning of the service provider system. The caseworker facilitates a process of helping the family, service providers and the department come to an agreement on a coordinated plan for service with mutually-agreed-upon treatment outcomes. The family and caseworker should meet, together with the service providers, to make providers aware of the family's problems as well as the family's outcome for change.

- Service provider's plan for intervention needs to be directly related to the achievement of change outcomes.

Recommendations:

5.1 That the Department ensure other human service providers are reminded regularly of provisions in *The Child and Family Services Act*, and obligations of the Department and FNCFS agencies to provide services to address child protection concerns.

5.2 That clear protocols and procedures for communication and coordinated case planning are developed between child welfare services and community agencies routinely providing services to high-risk families on and off reserve.

6. Government Support

Finding:

The National Policy Review identified limitations in the capacity of First Nations Child and Family Services agencies across Canada and recommended changes to funding policies and infrastructure support.

Provincial Support

- The FNCFS agencies utilize the authority of *The Child and Family Services Act*. Therefore, they are obligated to provide a level of service that is consistent with the provisions in that legislation. The agencies can develop their own program and practice standards. In the absence of standards developed by First Nations agencies, provincial department standards are used. Currently, agencies use department standards pending completion of FNCFS agency standards.

- Agencies are lacking in the areas of training, accountability measures, performance improvement mechanisms, senior-level case consultation, internal appeal mechanisms, and policy/program development.

- The First Nations, provincial government and Children's Advocate recognize the development of First Nations-delivered child welfare services as a major advancement for on-reserve children, families and communities.

  This development has occurred in stages and is not yet complete. The initial emphasis has been on negotiating Agreements for service. The Department has provided advice and support in response to specific operational and program requests. There is a good level of cooperation between the province and FNCFS agencies. FNCFS staff participate in child welfare training and file reviews, as well as consultation on case-related matters. FNCFS agencies and the Department have developed an agenda to identify and address mutual program and policy concerns, complete the 26 protocols, undertake joint program planning, service improvement and accountability. Forums are in place to complete and oversee this work. The capacity of agencies to further this agenda is, however, limited by experience, financial resources and systematic supports.

- In order to proceed to the next level of FNCFS agency development, a focused and systematic framework for joint service improvement and accountability is required. This level of development requires a comprehensive plan that includes FNCFS agencies, the Department and INAC.

Federal Support

- The Federal government provides funding for FNCFS agencies. INAC program Directive 20-1, implemented in 1991, outlines the operational and funding criteria for FNCFS agencies in Canada. The Directive requires FNCFS agencies to use provincial child welfare legislation.

While there is common purpose in the various pieces of legislation across the country, there is considerable variation in specific provisions and the funding mechanism is not sensitive to these provincial variations. When reforms such as the Child Welfare Redesign in this province are introduced, the federal funding does not change accordingly.

The funding arrangement does not address unique and historical characteristics of each First Nations community. Most importantly, there is no forum to address operating issues that, therefore, arise.

- The limitations of program Directive 20-1 have been recognized and discussions between the federal government and First Nations across Canada have been ongoing for several years. A National Policy Review (NPR) of Directive 20-1 was jointly undertaken by the Assembly of First Nations, with FNCFS representation, and INAC in March 1999. The intent of this review was to identify possible improvements to current policy regarding the development and operation of FNCFS agencies.

  The review was completed in June 2000 and concluded that a new policy to replace Directive 20-1 must be developed in a joint process that includes all stakeholders and ensures funding support for that process and for an accompanying action plan. The NPR contained 17 specific recommendations to improve the policy; however, these recommendations have not yet been implemented.

- There is remarkable consistency between the issues identified in the National Policy Review and a number of the issues identified in this review. Many of the recommendations in the Baby Andy Review are encompassed in the recommendations of the National Policy Review (Appendix B). The review panel notes that a number of groups have pressed INAC for progress in implementing the recommendations in the National Policy Review including:

  - the Assembly of First Nations;
  - a National Group of FNCFS Directors;
  - the Federation of Saskatchewan Indian Nations;
  - the Canadian Council of Provincial Child and Youth Advocates; and
  - the Provincial Ministers responsible for child welfare.

Recommendations:

6.1 That the Montreal Lake Agency, the Department, and INAC work with other FNCFS agencies to develop a child welfare system that recognizes and respects the unique characteristics of each First Nations community.

6.2 That the Montreal Lake Agency, the Department, and INAC work with the other FNCFS agencies to develop a comprehensive Saskatchewan plan that will assist FNCFS agencies to further develop the capacity necessary to carry out their obligations pursuant to *The Child and Family Services Act.*

6.3 That the Montreal Lake Agency, FNCFS agencies, the Department, and other relevant parties complete the development and implementation of the 26 protocols.

6.4 That INAC commit immediately to commence implementation of the recommendations from the National Policy Review starting with:

- the establishment of a Tripartite Forum to identify issues and find solutions to support a fully-operational, on-reserve child welfare service. Funding would be required for human resources and infrastructure to support this table.

- a flexible funding policy that supports best case practices in the best interests of the child and recognizes provincial variations that exist and change over time.

Part V - Conclusion

The purpose of the review was to examine the services provided to Baby Andy and his family. The review panel was asked to determine the case facts, provide analysis and make recommendations, as appropriate, to all related service, delivery and funding agencies. In doing so, the review panel had the benefit of hindsight.

The circumstances in this case are a tragedy and a child, his family, and many others have been deeply affected.

There are program standards, policies and procedures to guide case practice. Some of the improved program standards were introduced near the time of the incident, while others were in place throughout the period that Baby Andy and his family received services.

Program standards, policies and procedures were not consistently followed. In this case, comprehensive assessments to determine risks to child safety were not completed. Documentation was not clear or completed on a consistent basis and, therefore, did not provide a record of historical information on which to base case planning decisions. The high level of staff turnover and limited training were compounding factors.

The review panel noted there were a number of agencies, services providers and individuals involved with this family; however, services were not provided in a coordinated manner. There were indications that this family was experiencing stress; however, the information was neither shared nor acted upon.

This case review was specific to the Montreal Lake Agency and the Prince Albert office of the Department of Community Resources and Employment and identified concerns about the capacity of the Agency to deliver child welfare services.

The review panel discussed the capacity of the other FNCFS agencies during its deliberations. There are some broader functions necessary to delivering child welfare services that cannot be completely provided within individual agency structures. The panel notes that the recommendations of the National Policy Review speak to capacity issues of FNCFS agencies across Canada. The Saskatchewan FNCFS agencies, as a whole, would benefit from capacity in the areas of: training; overall accountability; quality assurance; expert case consultation; and policy development.

This should be available for all agencies. Therefore, the panel emphasizes the need for FNCFS agencies, INAC and the Department to develop a comprehensive support and funding plan for child welfare services. FNCFS and the Department have established forums for joint work and planning. It is important that the three parties responsible for child welfare services also meet to address the issues identified in this report. As previously noted, the National Policy Review provides guidance for next steps.

Appendix A - Terms of Reference

Background

In a display of good faith, the parties entered into agreements allowing the creating of the Montreal Lake Child and Family Agency to be responsible for the protection of children for providing child and family services to the Montreal Lake Cree Nation.

The Montreal Lake Cree Nation and the Province of Saskatchewan agreed to mutually vest their authority to the Agency.

Pursuant to its fiduciary obligations, the Federal Government provides comprehensive funding to the Montreal Lake Child and Family Agency for the delivery of First Nation child and family services.

Purpose of the Review

Pursuant to the agreement between Montreal Lake Cree Nation, the Minister of the Department of Community Resources and Employment and the Montreal Lake Child and Family Agency, said parties agreed to conduct a review of services provided to Andy and his family, and the circumstances which led to his injury.

The circumstance which led to the injury of Andy and the subsequent need to conduct a case review to determine what happened, is an exceptional circumstance for the Montreal Lake Child and Family Agency.

The Montreal Lake Cree Nation, the Minister of Community Resources and Employment and the Montreal Lake Child and Family Agency, agree that it is imperative that the Federal Government, namely, Indian and Northern Affairs Canada, participate in the review and provide the necessary assistance.

The review is being undertaken in accordance with paragraph 7 of an Agreement entered into by the Minister of Community Resources and Employment and the Montreal Lake Cree Child and Family Agency, which provides as follows:

> *"It is desirable that there be established an intergovernmental authority (IGA) made up of representatives of each of the parties, which may be assigned certain dispute resolution tasks pertaining to the operation of the Indian Child and Family Services Agency which, from time to time, may face issues that possess or appear to possess case specific jurisdictional characteristics."*

Scope of the Review

The review will examine all services provided to Andy and his family by either the department or the agency. Particular attention will be paid to:

- Services provided to the children and parents while the children were in foster care;
- The decision to return the children to the care of their parents; and
- Services provided subsequent to the children's return home.

The review will determine the case facts, provide analysis and make recommendations as appropriate to all related service, delivery and funding agencies.

The review will involve the following:

- Interviews with all relevant staff and other service providers;
- Review of all documentation; and
- Review of all relevant agreements, policy, procedures and standards.

Principles for the Review

The review will be guided by the following principles:

- The parties' mutual interest in the protection and safety of all children;
- Complete sharing of all information with all parties involved in the review process;
- Mutual respect for all parties involved in the review process;
- Balancing the need for public accountability through an open and transparent process with individual privacy concerns;
- Respect the criminal process and not interfere with it; and
- Review is intended to examine the services provided to Andy and his family and is not intended to assign criminal liability.

Review Process

The Children's Advocate Office will engage in an independent fact finding process to determine all facts in the case. The findings will be presented in a report to a panel of representatives from the department and the agency. Indian and Northern Affairs Canada will be invited to participate on this panel. The panel will be responsible for analysis of the facts and for making recommendations, as appropriate. The Children's Advocate Office will sit as an observer during the analysis and recommendation stage.

The parties acknowledge the independence of the Children's Advocate and acknowledge that the Advocate may make further recommendations, as appropriate.

The proposed panel will be composed of:

- Two representatives of the department;
- Two representatives as appointed by the Board of Directors of Montreal Lake Child and Family Agency;
- Two representatives from INAC;
- The Children's Advocate Office as an observer.

The parties will engage an implementation process appropriate to the recommendations being made.

Timeline for Review

The parties agree that the review will be conducted as soon as possible and be completed in a timely fashion. Regular updates on the determination of facts will be provided to the panel.

Results of the Review

Results of the review will be provided to the Chief of Montreal Lake Cree Nation, the Minister of Community Resources and Employment and the Board of Directors of Montreal Lake Child and Family Agency, Indian and Northern Affairs Canada, and with the agreement of the parties, results will be provided to the public.

Appendix B - National Policy Review Recommendations

The recommendations of this policy review are as follows:

1a. The Joint Steering Committee of the National Policy Review recognizes that Directive 20-1 is based on a philosophy of delegated authority. The new policy or directive must be supportive of the goal of First Nations to assume full jurisdiction over child welfare. The principles and goals of the new policy must enable self-governance and support First Nation leadership to that end, consistent with the current policy of the Government of Canada as articulated in *Gathering Strength*.

1b. The new policy or directive must support the governance mechanisms of First Nations and local agencies. Primary accountability back to community and local leadership must be recognized and supported by the policy.

2. The Joint Steering Committee recognizes the need for a national process to support First Nation agencies and practitioners in delivery of services through various measures including best practices.

3. A national framework is required that will be sensitive to the variations that exist regionally in relation to legislation and standards. Tripartite tables consisting of representatives from First Nations, DIAND and the provinces/territories are required to identify issues and solutions that fit the needs of each province/territory. Some of the issues that will need to be addressed by these regional tables consist of (but are not limited to) the following:

   a) definitions of maintenance

   b) identification of essential statutory services and mechanisms for funding services

   c) definitions of target populations (as well as, the roles of federal/provincial/territorial governments related to provision of services)

   d) adjustment factors for new provincial programs and services - processes for FNCFS agencies to adjust and accommodate the impacts of changes in programs and services

   e) definition of special needs child

   f) dispute mechanisms to address non-billable children in care

   g) definition of range of services

   h) definition of financial audit and compliance comparability/reciprocity between provincial and First Nation accreditation and qualifications requirements of staff (e.g. licensing criteria)

4. DIAND, Health Canada, the provinces/territories and First Nation agencies must give priority to clarifying jurisdiction and resourcing issues related to responsibility for programming and funding for children with complex needs such as handicapped children, children with emotional and/or medical needs. Services provided to these children must incorporate the importance of cultural heritage and identity.

5. A national framework is needed that includes fundamental principles of supporting FNCFS agencies that is sensitive to provincial/territorial variances and has mechanisms to ensure communication, accountability and dispute resolution mechanisms. This will include evaluation of the roles and capacity of all parties.

6. The funding formula inherent in Directive 20-1 is not flexible and is outdated. A methodology for funding operations must be investigated. Any new methodology should consider factors such as workload/caseload analysis, national demographics and the impact on large and small agencies, and economy of scale. Some of the issues a new formula must address are:

   a) Gaps in the operations formula. A clear definition is required.

   b) Adjustments for remoteness

   c) Establishment of national standards

   d) Establishment of an average cost per caseload

   e) Establishment of caseload/workload measurement models

   f) Ways of funding a full service model of FNCFS

   g) The issue of liability

   h) Exploration of start up developmental costs

   i) Develop and maintain information systems and technological capacity

7. The Joint Steering Committee found that the funding formula does not provide adequate resources to allow FNCFS agencies to do legislated/targeted prevention, alternative programs and least disruptive/intrusive measures for children at risk. It is recommended that DIAND seek funding to support such programming as part of agency funding.

8. DIAND must pursue the necessary authorities to enable FNCFS agencies to enter into multi-year agreements or block funding as an option to contribution funding to further enhance the ability of First Nations to deliver programs that are geared to maintaining children within their families, communities and reuniting those children-in-care with their families. This requires the development of a methodology

for establishing funding levels for block funding arrangements that encompass:

a) a methodology and authority for second generation agreements

b) multi-year authorities for these programs with a criteria for measurement of success (DIAND) may need to go to Cabinet to get authority for this.

9. An "exceptional circumstances" funding methodology is required to respond to First Nation communities in crisis where large numbers of children are at risk. Best practices must be the basis of the development of this methodology.

10. A management information system must be developed and funded for First Nations in order to ensure the establishment of consistent, reliable data collection, analysis and reporting procedures amongst all parties (First Nations, regions, provinces/territories and headquarters).

11. Funding is required to assist First Nations Child and Family Service agencies in the development of their computerization ability in terms of capacity, hardware and software.

12. Funding is required for ongoing evaluation based on a national framework with a national guideline to be developed.

13. DIAND and First Nations need to identify capital requirements for FNCFS agencies with a goal to develop a creative approach to finance First Nation child and family facilities that will enhance holistic service delivery at the community level.

14. Funding is required for ongoing standards development that will allow FNCFS agencies to address change over time.

15. Priority consideration should be given to reinstating annual cost of living adjustments as soon as possible. Consideration should also be given to address the fact that there has not been an increase in cost of living since 1995-96.

16. Phased-in funding is a problem in the formula and should be based on the level of delegation from the province.

17. An immediate tripartite review (Canada, Ontario and Ontario First Nations) be undertaken in Ontario due to the implications of the 1965 Indian Welfare agreement, current changes to the funding formula and the Ontario Child Welfare Reform.

Appendix C - Letter from the Children's Advocate

The Saskatchewan Children's Advocate Office

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SASKATCHEWAN

June 23, 2003

Honourable Glenn Hagel
Minister of Saskatchewan
Community Resources
and Employment
Room 348, Legislative Building
REGINA SK S4S OB3

Chief Richard (Ritchie) Bird
Montreal Lake Cree Nation
Box 106
MONTREAL LAKE SK S0J 1Y0

Dear Minister Hagel and Chief Bird:

Re: Review of the case of "Baby Andy and his family

The joint review panel, established by an agreement between Saskatchewan Community Resources and Employment (formerly Social Services) and the Montreal Lake Cree Nation Child and Family Agency has now concluded the review of services provided to Andy and his family. In accordance with the Terms of Reference established for this review, my role as independent fact finder and observer in the review of the circumstances surrounding Andy's case has also been concluded.

The Children's Advocate Office initially became involved in this review on September 9, 2002, when I notified the Montreal Lake Child and Family Agency (MLCFA) that we would be reviewing the services provided to Andy by the MLCFA. Following significant and compelling discussions with representatives of the MLCFA and Saskatchewan Community Resources and Employment, the Children's Advocate Office agreed to the Terms of Reference for this review. You identified two primary objectives for this review, both fully endorsed by the Children's Advocate Office. These objectives were to have child welfare services in Saskatchewan to ensure the safety of all children in the province and that the public has confidence in the system. With these objectives in mind, I agreed, on behalf of my Office, to engage in an independent fact finding process to determine all the facts in the case and to present these facts and findings to a panel of representatives from the department and the agency. I also agreed to participate as an observer while the panel, responsible for the analysis of the facts and for making recommendations, met. The department and the agency both acknowledged the independence of the Children's Advocate and recognized that the Advocate may make further recommendations as appropriate.

The facts were obtained and shared with the panel under the authority of *The Ombudsman and Children's Advocate Act*. The involvement of the Children's Advocate Office in a process such as has been undertaken in this review is certainly unique and, I believe, unprecedented. I am hopeful that by undertaking this review in this manner the resulting recommendations will be fully implemented and that the public will indeed have confidence that the accountability required when tragedies such as this occur has been fully realized.

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I want to state that it is my opinion that the findings and recommendations of the panel were thoughtfully developed in full consideration of the facts as understood by the Children's Advocate Office. I am confident that the report to be provided to you by the panel, including the conclusions they have made, reflect the significance of the issues identified. Clearly no one wants a tragedy such as this repeated for any other child. The review of the services provided to Andy and his family once again reinforce the serious nature of the responsibilities carried by the individuals and agencies that care for children in need of protection. I respect the open and candid manner in which this review was conducted and I support the recommendations that will be presented to you for your consideration.

The Terms of Reference for this review identified that the results would be provided to the Chief of the Montreal Lake Cree Nation, the Minister of Community Resources and Employment, the Board of Directors of the Montreal Lake Child and Family Agency, and to Indian and Northern Affairs Canada. It was further stated that the results would be provided to the public with the agreement of the parties. I am, as you will appreciate, anticipating that the report will be made public in the near future.

I recognize that this review has been a very difficult undertaking for all involved. I want to express my sincere appreciation to all who generously participated in this review, including the over twenty individuals we interviewed, the staff in both government and community offices who assisted with gathering information and to my staff who devoted significant time to this review. I want to also commend the four panel members who spent countless hours examining the facts, meeting together and developing the recommendations contained in the final document you recently received.

The events that contributed to Andy being assaulted and very seriously injured were very difficult to accept. The great challenge we all have now is to determine how to courageously and boldly affect the changes to practice, policy and legislation that are urgently required to ensure that all Saskatchewan children are safe and receive the services to which they are entitled. I want to assure you that the Children's Advocate Office remains committed to working towards this goal for all children.

Sincerely,

DParker-Loewen

Deborah Parker-Loewen, Ph.D.
Children's Advocate

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